



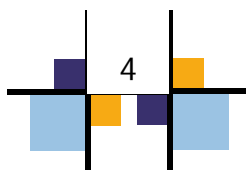
## SPECIAL EMPHASIS AREAS

**The Death Penalty in Indian Country.** Several violent crime cases have required this office to review the applicability of the death penalty as it applies in Indian Country. While 18 U.S.C. § 3598 specifies that the death penalty does not apply to offenses arising in Indian Country, Section 3598 also provides each Indian tribal government with the discretion to decide whether to seek the death penalty for tribal members who commit crimes within that tribe's reservation boundaries. However, in circumstances where a generally applicable federal offense (e.g. federal carjacking) is charged and where the maximum sentence is death, the death penalty may become an option for the court to consider, regardless of whether the crime is committed in Indian Country. When this occurs, the U.S. Attorney is required to inform and consult with the U.S. Attorney General and to provide specific information on the crime, the victim impact and victim's sentencing views.

**Manslaughter Sentencing Guidelines.** Earlier this year, the U.S. Attorney testified before the U.S. Sentencing Commission regarding the impact of the sentencing guidelines on manslaughter crimes occurring in Indian Country. The Commission is made up of presidentially-appointed judges who are responsible for developing sentencing guidelines for use by the federal courts for federal crimes, including Major Crimes Act offenses. The U.S. Attorney provided testimony on the increase in drunk driving homicides in Indian Country and the impact of these crimes. He encouraged the Commission to increase the sentencing guideline penalties for these offenses. Currently, the average sentence for a first time offender who commits a drunk driving homicide and who has no prior criminal history is from 15-21 months.

**Continuing Emphasis on Alcohol and Drug Possession and Distribution in Indian Country.** The office continues to focus resources and attention on crimes involving the possession and distribution of drugs and alcohol in Indian Country where prohibited. Illegal substances and alcohol are often present in violent crime cases. Therefore, in an effort to reduce violent crime, the U.S. Attorney's Office will continue to provide prosecution support to all tribal law enforcement seeking to address the impact of illegal substances in Indian communities.

**Continuing Attack on the Illegal Distribution of Alcohol in "Dry" Indian Country.** The experience of Indian Country violent crime prosecutors is that the majority of violent crimes investigated by federal and tribal law enforcement in Indian Country involve assailants who are under the influence of alcohol. Additionally, several tribal leaders have sought our assistance and that of federal and tribal law enforcement to address the illegal distribution of alcohol where prohibited and illegal substance distribution. Working jointly, we identified areas of need and implemented joint investigations to address "bootlegging" activities. These investigations resulted in numerous arrests. These arrests heightened public awareness of the affects of alcohol and drug distribution (including violent crime), encouraged community involvement and improved cooperation among tribal, federal and in some cases, county, agencies in proactive crime prevention in Indian Country.

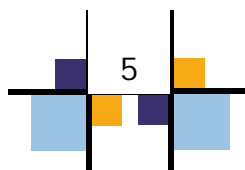




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These efforts continue to make an impact. For example, five of the bootleggers arrested in “Operation Bootleg” in August 2001 violated their probation and have been sentenced to prison. Charges were originally filed against the bootleggers for selling various types and quantities of alcohol to undercover officers on the Navajo Indian Reservation. The first group of those arrested in August 2001 were found guilty of violating 18 U.S.C. § Section 1154(a), the unlawful dispensing of intoxicating liquor. A conviction for violating Section 1154(a) or Title 21 U.S.C. Section 844(a) carries a maximum penalty of one year in jail and a \$100,000 fine or both. The bootleggers were sentenced to probation for one year by a U.S. Magistrate. Among those to re-offend were the following:

- ***United States v. Ophelia Heyde.*** Heyde was among the first group arrested in “Operation Bootleg” in August 2001 and convicted on October 30, 2002, of Unlawfully Dispensing of Alcoholic Beverages on the Navajo Nation. She was sentenced to probation for a period of one year by a U.S. Magistrate. A petition alleging that Heyde violated her probation was filed with the District Court on January 31, 2003, charging her with Unlawful Dispensing of Alcoholic Beverages. She was arrested and an initial appearance was held in District Court in Flagstaff, Arizona, on February 3, 2003.
- ***United States v. Jennifer Ann Chee.*** Chee completed substance abuse treatment at the Guiding Star Lodge, failed to abide by the terms of her probation. Chee was charged with violating the terms of her probation for consuming alcohol and failure to report to her probation officer. Chee was arrested and initialed on the charges on May 16, 2003. On June 2, 2003, she admitted her violations and an order was issued on June 2, 2003, revoking the defendant’s probation as unsuccessfully completed.
- ***United States v. Herbert Begay.*** A member of the first group of bootleggers to be arrested, Begay violated the terms of his probation. He was arrested by Navajo Tribal Police for contributing to the delinquency of a minor and for delivery of alcohol. A petition to revoke his probation was filed and on January 18, 2002, the defendant had an initial appearance before the U.S. Magistrate. He admitted violating the terms of his probation. On February 5, 2002, Begay was committed to the Bureau of Prisons to serve a term of one year imprisonment.
- ***United States v. Jay Johnson*** On November 5, 2001, Jay Johnson was sentenced to one year’s probation for his bootlegging activities. On June 27, 2002 a petition to revoke his probation was filed with the United States District Court charging Johnson with failure to complete his substance abuse treatment, failure to pay his fine and failure to report as ordered to his probation officer. Johnson was arrested on November 5, 2002. He admitted to the violations as charged and was sentenced on November 26, 2002, to 6 months in custody.





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- ***United States v. Selena Austin.*** Austin was arrested on March 5, 2003, on a petition to revoke probation filed with the court on June 24, 2002. She was charged with failure to complete court ordered substance abuse treatment and failure to report to her probation officer. On March 18, 2003, Austin admitted her violations and was ordered to abide by the terms of her probation. Austin was reinstated to probation by a United States District Court Magistrate Judge.
- ***United States v. Irene Wallace.*** On April 14, 2002, bootlegging charges were brought against Irene Wallace who pled guilty and was sentenced on May 30, 2002, to one year of supervised probation. Wallace was charged with Driving Under the Influence and Reckless Driving on June 18, 2002. A petition to revoke her probation was filed with the court on July 12, 2002. On August 15, 2002, defendant was sentenced to one year in federal custody and the court recommended she be placed in a facility with alcohol and drug treatment services.
- ***United States v. Leonard Thompson, Jr.*** A criminal complaint was filed on December 12, 2002, against Leonard Thompson, Jr., charging him with bootlegging on the Navajo Reservation. A change of plea hearing was held on December 26, 2002, and Thompson was sentenced to one year probation. On April 7, 2003, Thompson was arrested for public intoxication. A petition to revoke his probation was filed and on April 15, 2003, defendant admitted to violating his probation terms. He was reinstated to probation by the United States Magistrate Judge and ordered to undergo substance abuse treatment.
- ***United States v. Omar Dixon.*** On February 3, 2003, Omar Dixon and charged with bootlegging on the Navajo Reservation. He was sentenced on February 10, 2003 to a term of one year probation. In June 2003 he was charged with stabbing an individual after a night of drinking and “partying.” Dixon is currently in custody and awaiting trial on these charges.

**Continuing Emphasis on Prevention and Prosecution of Child Abuse.** Assistant U.S. Attorney Dyanne Greer helped to develop a plan for a mobile child advocacy center to serve Northern Arizona’s Indian Country. The mobile center will be equipped with forensic interview and medical examination rooms and crisis intervention services to aid in the investigation of child abuse cases. A grant from the Department of Justice Victims of Crime Act Funds provided the funds to establish the mobile center. The mobile center is expected to be operational by October 2003. AUSAs Dyanne Greer and John Johnson continue to travel throughout Arizona’s Indian Country to provide training on child abuse investigation technique and establishing Multi-Disciplinary Teams (MDT) to better address child abuse crimes in Indian Country. Additionally, each AUSA in the Violent Crimes Section is responsible for participating in an MDT in Indian Country.